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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/195,005	11/18/1998	BERND WILLING	MO-4861-HE-1	3843

7590 02/28/2003

PATENT DEPARTMENT  
BAYER CORPORATION  
100 BAYER ROAD  
PITTSBURGH, PA 152059741

EXAMINER

VALENZA, JOSEPH E

ART UNIT	PAPER NUMBER
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3651

DATE MAILED: 02/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/195,005

Applicant(s)

WILLING, BERND

Examiner

Joseph Valenza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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### DETAILED ACTION

1. The examiner was asked by management to enter the amendment of November 18, 2002. The following action is a response to said amendment.
2. Claims 7-9 are rejected under 35 U.S.C. 112 for the following reasons.

The claims 7-9 are based on an inadequate disclosure because they contain "detachable connection element" and "connecting element" that the Board of Appeals had determined in its September 25, 2002 decision were inadequately disclosed. While references are made on page 5 of the amendment to disclosures in the original disclosure to define the designs of "detachable connection element" and "connecting element", these disclosures already have been considered by the Board of Appeals as being inadequate.

The removal of the other inadequately disclosed elements "coupling element" and "detachable element" from the insertion and the removal tracks noted by the Board of Appeals makes the new claims incomplete because these elements enable the wagons to move along the insertion track and couple with or decouple from the insertion or removal track. Since these functions are in lines 22, 24, 30 and 31 of claim 7, the claims 7-9 are incomplete because the means, which permit these functions to occur, must be claimed even though they have been considered by the Board of Appeals as being inadequately disclosed.

With regard to claim 9, the claim is incomplete because no means has been claimed which performs the pushing function along the insertion and removal tracks.

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There also is no disclosure for one wagon pushing a preceding wagon along the removal track as claimed.

Claims 7-9 are also unclear. Line 27 requires all wagons to travel "around said oval track". This phrase does not include travel less than one complete loop. Note also figures 1, 2 and 4 show a wagon that has passed the removal track. However, the language of the last four lines of claim 7 requires every wagon to be removed from the oval track and moved to the removal track. This conflicting language makes the claims unclear.

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

4. Any inquiry concerning this communication should be directed to Joseph E. Valenza at telephone number (703) 308-2577. Amendments may be faxed to 703-305-7687. My normal workweek is Monday through Thursday.

  
JOSEPH E. VALENZA  
PRIMARY EXAMINER